

In response to that Office Action, Applicant offers the following remarks.

Claims 1 and 4-14 are pending in this application.

In the Office Action, the Examiner continues to maintain the objection to the specification, again asserting that the incorporation by reference of Japanese patent application laid-open No. 10-051651 is improper.^{1/}

Claim 1 recites, in part, “analyzing whether compressed data contained in a drawing instruction corresponds to an image attribute, a text attribute or a graphics attribute by discriminating a format of the compressed data”. In the Preliminary Amendment filed on October 31, 2005, it was pointed out to the Examiner that since the reference to the Kokai in the specification is in relation to analyzing data *other than* compressed data, while Claim 1 recites analyzing *compressed* data, the objection is improper, as no “essential disclosure” is missing from the application.

In the current Office Action, the Examiner states, at page 3, that the Kokai contains essential material. However, the Examiner also states that Claim 1 is supported by the specification.

It is strongly urged that the Examiner’s objection to the specification is without merit. Since Claim 1 does not lack support in the specification – a point the Examiner agrees with – then there is no justification for objecting to the specification on the basis of the incorporation by reference. It is noted that the Examiner states the following at page 3 of the Office Action:

^{1/} It is noted that the Examiner now agrees that the incorporation by reference is not “implicit.”

Furthermore, when the result of the analyzing step indicates that the drawing instructions contain data other than compressed data, an attribute of each image is judged according to the kind of each drawing instruction in a manner as described in Japanese Patent Application Laid-open No. 10-051651. These results are needed for the developing step recited in Claim 1. Thus, the material in Japanese patent application laid-open No. 10-1051651 is essential for implementing the whole embodiment.

However, Claim 1 recites “analyzing whether *compressed* data contained in a drawing instruction corresponds to an image attribute, a text attribute, or a graphics attribute by discriminating a format of the compressed data.” The claim does not recite analyzing data other than compressed data, and therefore the Examiner’s comments above are, respectfully, misguided. Since Claim 1 does not lack support in the specification, as the Examiner agrees, then the objection to the specification is improper.

Accordingly, withdrawal of the objection to the specification is respectfully requested.

CONDITIONAL PETITION

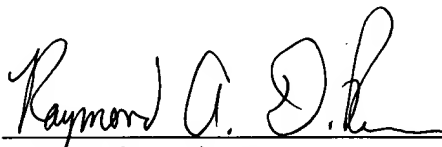
If the above Request is not promptly granted, Applicant requests that this paper be treated as a Petition to the Commissioner under 37 C.F.R. § 1.181(a)(3) for exercise of his supervisory authority, and that the Examiner forward this paper to the appropriate official for decision on the petition. While no petition fee is thought to be needed, any such fee that is deemed to be due should be charged to Deposit Account No. 06-1205.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Raymond A. DiPerna", written over a horizontal line.

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